

EDUCATION

CHAPTER 129

HOUSE BILL NO. 1127

(Education Committee)
(At the request of the State Board of Higher Education)

AN ACT to amend and reenact section 15-10-19.1 of the North Dakota Century Code, relating to resident students for tuition purposes; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-19.1. Nonresident and resident student for tuition purposes defined.

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. An individual whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. An individual of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. An individual who graduated from a North Dakota high school;
 - d. (1) A full-time active duty member of the armed forces;
(2) A member of the North Dakota national guard;
(3) A member of the armed forces reserve component stationed in this state; or
(4) A veteran, as defined in section 37-01-40;
 - e. A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;

- (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301];
 - (5) A benefited employee of the North Dakota university system; or
 - (6) Any other individual who is a resident for tuition purposes;
- g. A dependent of:
- (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301]; or
 - (5) A benefited employee of the North Dakota university system;
- h. An individual who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term; or
- i. A child, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
- j. A covered individual as defined by section 702 of Public Law No. 113-146 [128 Stat. 1797; 38 U.S.C. 3679].
3. A temporary absence from the state for vacation or other special or temporary purposes may not be considered an abandonment of residency in this state, provided a residence is maintained in this state during the temporary absence. However, a student who leaves the state and resides in another state for a period of months is not considered a resident of this state during those months if the student does not maintain a place of residence in this state during the student's absence.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 130

HOUSE BILL NO. 1051

(Legislative Management)
(Information Technology Committee)

AN ACT to create and enact two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code, relating to electronic mail services and retention for institutions of higher education; to amend and reenact subsection 1 of section 54-46-02 of the North Dakota Century Code, relating to records management; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code are created and enacted as follows:

Requiring utilization by each institution under the control and supervision of the board of systemwide electronic mail services provided by the board for all public business electronic correspondence.

Development and implementation of an electronic mail retention policy for the board and institutions under the supervision and control of the board which requires retention of nonstudent employee electronic mail messages for at least two years after the creation or receipt of the message.

SECTION 2. AMENDMENT. Subsection 1 of section 54-46-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agency" means any department, office, commission, board, or other unit, however designated, of the executive branch of state government, including the state board of higher education and the entities under the control of the state board of higher education.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of defraying expenses related to the retention of nonstudent employee electronic mail messages, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 131

HOUSE BILL NO. 1151

(Representatives Nathe, Beadle, Dockter, Dosch, Owens)
(Senators Armstrong, Flakoll, Holmberg)

AN ACT to amend and reenact sections 15-10-48, 15-10-49, 15-10-50, 15-10-51, 15-10-52, and 15-10-53 of the North Dakota Century Code, relating to matching grants for the advancement of academics at institutions of higher education; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

15-10-48. (~~Effective through June 30, 2015~~) Advancement of academics - Matching grants - University of North Dakota and North Dakota state university.

1. a. During the period beginning July 1, ~~2013~~2015, and ending December 31, ~~2014~~2016, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of the university of North Dakota and North Dakota state university for projects dedicated exclusively to the advancement of academics.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
- c. The board may award up to ~~ten~~seven million dollars in matching grants to each institution. The first two million dollars in matching grants awarded to each institution must be used for student scholarships that comply with section 15-10-53.
2. a. If any available dollars have not been awarded by the board before January 1, ~~2015~~2017, in accordance with subsection 1, either the university of North Dakota or North Dakota state university may apply for an additional matching grant.
- b. An application submitted under this subsection must meet the same criteria as an original application.
- c. The board shall consider each application submitted under this subsection in chronological order.
- d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.

3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

SECTION 2. AMENDMENT. Section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

15-10-49. (~~Effective through June 30, 2015~~) Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. During the period beginning July 1, ~~2013~~2015, and ending December 31, ~~2014~~2016, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of Bismarck state college, Dakota college at Bottineau, Dickinson state university, Lake Region state college, Mayville state university, Minot state university, North Dakota state college of science, Valley City state university, and Williston state college for projects dedicated exclusively to the advancement of academics.
 - b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
 - c. The board may award up to one million dollars in matching grants to each institution.
2. a. If any available dollars have not been awarded by the board before January 1, ~~2015~~2017, in accordance with subsection 1, any institution listed in subsection 1 may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
3. a. The board may award an additional five hundred thousand dollars in matching grants to institutions that have been awarded one million dollars in matching grants under subsection 1 and apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.

- d. If the funding provided under this subsection is insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
4. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

SECTION 3. AMENDMENT. Section 15-10-50 of the North Dakota Century Code is amended and reenacted as follows:

15-10-50. (Effective through June 30, 2015) Liability for pledged amount.

If in accordance with section 15-10-48 or 15-10-49, the state board of higher education provides grant funds under sections 15-10-48 through 15-10-53 to an institution, on the basis of a monetary pledge, and if the amount forthcoming is less than the amount pledged, the institutional foundation is liable to the institution for any shortfall.

SECTION 4. AMENDMENT. Section 15-10-51 of the North Dakota Century Code is amended and reenacted as follows:

15-10-51. (Effective through June 30, 2015) Grant review committee.

1. There is created a grant review committee consisting of:
 - a. The governor, or the governor's designee, who shall serve as the chairman;
 - b. Two members of the house of representatives appropriations committee, selected by the majority leader of the house of representatives;
 - c. Two members of the senate appropriations committee, selected by the majority leader of the senate;
 - d. Two members appointed by the governor, with the consent of the legislative management; and
 - e. Two members appointed by the state board of higher education, with the consent of the legislative management.
2. The gubernatorial appointees must have an understanding of higher education's role in advancing agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.
3. The grant review committee shall establish its rules of operation and procedure and shall develop and publish the criteria upon which all requests for matching grants will be reviewed.
4. a. A request for a matching grant ~~must~~may be presented to the committee by the:
 - (1) ~~The president of the institution.~~ The president; or
 - (2) A designee of the president.

- b. Either presenter may be accompanied by other individuals having an expertise with respect to the project.
- c. If the request is to be presented by a designee of a president, the designee must provide to the committee a written statement signed by the president and certifying that the president has full knowledge of all aspects of the request, as it is presented.

SECTION 5. AMENDMENT. Section 15-10-52 of the North Dakota Century Code is amended and reenacted as follows:

15-10-52. (Effective through June 30, 2015) Grant review committee - Compensation.

Each member of the grant review committee is entitled to receive compensation in the amount of one hundred thirty-five dollars per day plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the committee. The compensation provided for in this section may not be paid to any member of the committee who receives a salary or other compensation as an employee or official of this state if the individual is serving on the committee by virtue of the individual's state office or state employment.

SECTION 6. AMENDMENT. Section 15-10-53 of the North Dakota Century Code is amended and reenacted as follows:

15-10-53. (Effective through June 30, 2015) Definition.

For purposes of sections 15-10-48 through 15-10-52, projects dedicated to the advancement of enhanced academics include investments in research, scholarships, technology, endowed chairs, and investments in educational infrastructure, including but exclude scholarships intended solely for the benefit of athletics, campus facility repair projects, and new capital construction projects that conform with the university system campus master plan and space utilization study.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION MATCHING GRANTS. During the 2015-16 interim, the legislative management shall consider studying the provision of matching grants to institutions of higher education, as set forth in sections 15-10-48 through 15-10-53, for the purposes of ensuring that the statutory parameters provide sufficient direction, provide flexibility to accommodate changing circumstances and needs, and ultimately enable the delivery of the greatest possible benefits to the students attending institutions of higher education in this state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. APPROPRIATION - STATE BOARD OF HIGHER EDUCATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$21,000,000, or so much of the sum as may be necessary, and out of any moneys in the student loan trust fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of awarding matching grants for the advancement of academics at institutions of higher education under the control of the board, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

CHAPTER 132

SENATE BILL NO. 2159

(Senators Wardner, Armstrong)
(Representatives Fehr, Lefor, Schatz, Steiner)

AN ACT to authorize the state board of higher education and the state board of agricultural research and education to convey certain real property in Stark County owned by the state of North Dakota; to authorize the state board of higher education and the state board of agricultural research and education to acquire certain real property in Stark County; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CONVEYANCE OF LAND AUTHORIZED - ACQUISITION OF LAND AUTHORIZED - CONTINUING APPROPRIATION.

1. The state of North Dakota, by and through the state board of higher education and the state board of agricultural research and education, may convey certain real property used for the purposes of the Dickinson research extension center in Stark County for the price and on the terms as determined by the state board of higher education. Sections 54-01-05.2 and 54-01-05.5 do not apply to a conveyance authorized by this subsection.
 - a. The state board of agricultural research and education may convey the following parcels of land consisting of approximately 30 acres to the Dickinson school district:

The east 20 acres of the northwest $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.

The west 10 acres of the northeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.
 - b. The state board of agricultural research and education may grant the Dickinson school district a right of first refusal for the purchase of the following parcels of land within five years of the effective date of this Act:

The east 30 acres of the northeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.

The west 20 acres of the northwest $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.
 - c. If the Dickinson school district does not exercise the right to purchase the 50 acres described in subdivision b or any portion of those parcels, the state board of agricultural research and education may convey that land to another purchaser at fair market value.

- d. The state board of agricultural research and education may convey the following parcel of land consisting of approximately 160 acres at public auction:

The southwest quarter of section 29 of township 140 north, range 96 west.

2. The state of North Dakota, by and through the state board of higher education and the state board of agricultural research and education, may acquire certain real property in Stark County to be used for the purposes of the Dickinson research extension center on the terms and for a price as approved by the state board of higher education, but not to exceed \$2,602,000. The state board of agricultural research and education shall use any funds received under the conveyance of state land under subsection 1 for the purchase of the following parcels of land:

The west $\frac{1}{2}$ of section 30 of township 139 north, range 91 west.

The west $\frac{1}{2}$ of section 31 of township 139 north, range 91 west.

The south $\frac{1}{2}$ of section 25 of township 139 north, range 92 west.

The southeast $\frac{1}{4}$ of section 26 of township 139 north, range 92 west.

The north $\frac{1}{2}$ of section 36 of township 139 north, range 92 west.

The north $\frac{1}{2}$ of the south $\frac{1}{2}$ of section 36 of township 139 north, range 92 west.

The south $\frac{1}{2}$ of the southeast quarter of section 36 of township 139 north, range 92 west.

3. Any funds received as a result of a conveyance under subsection 1 are appropriated on a continuing basis and may be used by the state board of agricultural research and education for acquiring the property described in subsection 2. Any funds received as a result of a conveyance under subsection 1 which exceed the amount necessary to acquire the property described in subsection 2 must be deposited in a special fund that may be used by the state board of agricultural research and education solely for agricultural research purposes at the Dickinson research extension center and those funds are appropriated on a continuing basis for that purpose.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 26, 2015
Filed February 26, 2015

CHAPTER 133

HOUSE BILL NO. 1471

(Representatives Looyesen, Rick C. Becker, Haak, Mock)
(Senators Grabinger, Luick)

AN ACT to create and enact a new section to chapters 15-10 and 15.1-06 of the North Dakota Century Code, relating to freedom of expression rights of students of public institutions of higher education and public schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Student journalists - Freedom of expression - Civil remedy.

1. As used in this section:
 - a. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at an institution under the supervision of the state board of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
 - b. "Student journalist" means a student of an institution under the supervision of the state board of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
 - c. "Student media adviser" means an individual employed, appointed, or designated by an institution under the supervision of the state board of higher education to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the institution or by use of facilities of the institution or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.
3. This section does not authorize or protect expression by a student that:
 - a. Is libelous or slanderous;
 - b. Constitutes an unwarranted invasion of privacy;

- c. Violates federal or state law; or
- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.

SECTION 2. A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

Student journalists - Freedom of expression - Civil remedy.

1. As used in this section:
 - a. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public school, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
 - b. "Student journalist" means a public school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
 - c. "Student media adviser" means an individual employed, appointed, or designated by a school district to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the school district, by use of facilities of the school district, or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.
3. This section does not authorize or protect expression by a student that:
 - a. Is libelous or slanderous;
 - b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policy, or the material and substantial disruption of the orderly operation of the school.
4. A school district may not authorize any prior restraint of any school-sponsored media except when the media:
 - a. Is libelous or slanderous;

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- b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policies, or the material and substantial disruption of the orderly operation of the school.
5. A school district may not sanction a student operating as an independent journalist.
6. Each school district shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression. The policy may also include limitations to language that may be defined as profane, harassing, threatening, or intimidating.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 134

SENATE BILL NO. 2150

(Senators Holmberg, Armstrong, Casper)
(Representatives Delmore, M. Johnson, Larson)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to student and student organization disciplinary proceedings at institutions under the control of the state board of higher education; to provide for the development of a uniform policy; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Disciplinary proceedings - Right to counsel for students and organizations - Appeals.

1. Any student enrolled at an institution under the control of the state board of higher education has the right to be represented, at the student's expense, by the student's choice of either an attorney or a nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's rules or policies. This right applies to both the student who has been accused of the alleged violation and to the student who is the accuser or victim. This right only applies if the disciplinary proceeding involves a violation that could result in a suspension or expulsion from the institution. This right does not apply to matters involving academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall inform the students in writing of the students' rights under this section.
2. Any student organization officially recognized by an institution under the control of the state board of higher education has the right to be represented, at the student organization's expense, by the student organization's choice of either an attorney or nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's rules or policies. This right only applies if the disciplinary proceeding involves a violation that could result in the suspension or the removal of the student organization from the institution. This right applies to both the student organization that has been accused of the alleged violation and to the accuser or victim.
3. a. Any student who is suspended or expelled from an institution under the control of the state board of higher education for a violation of the rules or policies of that institution and any student organization that is found to be in violation of the rules or policies of that institution must be afforded an opportunity to appeal the institution's initial decision to an institutional administrator or body that did not make the initial decision for a period of one year after receiving final notice of the institution's decision. The right to

- appeal the result of the institution's disciplinary proceeding also applies to the student who is the accuser or victim.
- b. The right of the student or the student organization under subsection 1 or 2 to be represented, at the student's or the student organization's expense, by the student's or the student organization's choice of either an attorney or a nonattorney advocate, also applies to the appeal.
 - c. The issues that may be raised on appeal include new evidence, contradictory evidence, and evidence that the student or student organization was not afforded due process. The institutional body considering the appeal may consider police reports, transcripts, and the outcome of any civil or criminal proceeding directly related to the appeal.
4. Upon consideration of the evidence, the institutional body considering the appeal may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or expulsion. If the appeal results in the reversal of the decision or a lessening of the sanction, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion which had not been previously refunded.
 5. For purposes of this section, "fully participate" includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution to use formal rules of evidence in institutional disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence which is neither relevant or probative.
 6. This section does not affect the obligation of an institution to provide equivalent rights to a student who is the accuser or victim in the disciplinary proceeding under this section, including equivalent opportunities to have others present during any institutional disciplinary proceeding, to not limit the choice of attorney or nonattorney advocate in any meeting or institutional disciplinary proceeding, and to provide simultaneous notification of the institution's procedures for the accused and the accuser or victim to appeal the result of the institutional disciplinary proceeding.

SECTION 2. STATE BOARD OF HIGHER EDUCATION TO DEVELOP POLICY - REPORT TO LEGISLATIVE MANAGEMENT. The state board of higher education shall develop and implement a procedure for student and student organization disciplinary proceedings which is applied uniformly to all institutions under the control of the state board of higher education. Before July 1, 2016, the state board of higher education shall report to the legislative management on the status of the implementation of the uniform procedure.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 135

HOUSE BILL NO. 1045

(Legislative Management)
(Higher Education Funding Committee)

AN ACT to create and enact a new section to chapter 15-18.1 and a new section to chapter 15-20.4 of the North Dakota Century Code, relating to postsecondary educational institution and postsecondary career school course and program compliance with professional registration and certification requirements; and to amend and reenact sections 15-18.1-05 and 15-20.4-04 of the North Dakota Century Code, relating to minimum standards to operate postsecondary education institutions and postsecondary career schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.1-05. Minimum standards.

All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation may an institution become eligible for a regular authorization to operate. An institution shall give written notification to the board within thirty days of any change to the institution's accreditation status.

SECTION 2. A new section to chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

Compliance with professional board registration and certification requirements.

A postsecondary educational institution shall give written notification to potential students applying for enrollment in a course or program that customarily leads to professional registration or certification of the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state. A postsecondary educational institution shall give written notification to all students enrolled in a program or course that customarily leads to professional registration or certification of any change in the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state.

SECTION 3. AMENDMENT. Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards - Exceptions.

1. All postsecondary career schools must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary career school operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the school becomes eligible for accreditation by a recognized accrediting agency. Schools issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall a school become eligible for a regular authorization to operate. A school shall give written notification to the board within thirty days of any change to the school's accreditation status.
2. This section does not apply to postsecondary career schools operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.

SECTION 4. A new section to chapter 15-20.4 of the North Dakota Century Code is created and enacted as follows:

Compliance with professional board registration and certification requirements.

A postsecondary career school shall give written notification to potential students applying for enrollment in a course or program that customarily leads to professional registration or certification of the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state. A postsecondary career school shall give written notification to all students enrolled in a program or course that customarily leads to professional registration or certification of any change in the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 136

HOUSE BILL NO. 1064

(Government and Veterans Affairs Committee)
(At the request of the Teachers' Fund for Retirement)

AN ACT to amend and reenact subsection 10 of section 15-39.1-04, subsection 4 of section 15-39.1-10, sections 15-39.1-10.6 and 15-39.1-20, subsections 8 and 11 of section 15-39.1-24, and section 15-39.1-34 of the North Dakota Century Code, relating to the incorporation of federal law changes for the definition of salary, eligibility for normal retirement benefits, benefit limitations, and withdrawal from the fund under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a plan year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 ~~in effect on August 1, 2013, as amended.~~ "Salary" includes amounts paid to members for performance of duties, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013, as amended,~~ as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013, as amended.~~ A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:
 - a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.
 - b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
 - c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
 - d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
 - e. Teacher's aide pay, referee pay, busdriver pay, or janitorial pay.

- f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
- g. Signing bonuses as defined under section 15.1-09-33.1.
- h. Other benefits or payments not defined in this section which the board determines to be ineligible teachers' fund for retirement salary.

SECTION 2. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code ~~in effect on August 1, 2013, as amended,~~ and the regulations issued under that section, as applicable to governmental plans.

SECTION 3. AMENDMENT. Section 15-39.1-10.6 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.6. Benefit limitations.

Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] ~~in effect on August 1, 2013, as amended,~~ for governmental plans. The maximum dollar benefit applicable under section 415(b)(1)(A) of the Internal Revenue Code must reflect any increases in this amount provided under section 415(d) of the Internal Revenue Code ~~subsequent to August 1, 2013, as amended.~~ If a member's benefit is limited by these provisions at the time of retirement or termination of employment, or in any subsequent year, the benefit paid in any following calendar year may be increased to reflect all cumulative increases in the maximum dollar limit provided under section 415(d) of the Internal Revenue Code for years after the year employment terminated or payments commenced, but not to more than would have been payable in the absence of the limits under section 415 of the Internal Revenue Code. If an annuitant's benefit is increased by a plan amendment, after the commencement of payments, the member's benefit may not exceed the maximum dollar benefit under section 415(b)(1) (A) of the Internal Revenue Code, adjusted for the commencement age and form of payment, increased as provided by section 415(d) of the Internal Revenue Code. If this plan must be aggregated with another plan to determine the effect of section 415 of the Internal Revenue Code on a member's benefit, and if the benefit must be reduced to comply with section 415 of the Internal Revenue Code, then the reduction must be made pro rata between the two plans, in proportion to the member's service in each plan.

SECTION 4. AMENDMENT. Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-20. Withdrawal from fund.

When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days,

withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter, and by accepting the refund, the member is waiving any right to participate in the fund under the same provisions that existed at the time the refund was accepted regardless of whether the member later repurchases refunded service credit. A member or a beneficiary of a member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member or the beneficiary to the extent permitted by section 401(a)(31) of the Internal Revenue Code in effect on August 1, 2011, as amended.

¹⁰⁴ **SECTION 5. AMENDMENT.** Subsection 8 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

8. A teacher who has at least five years of teaching service credit in the fund may purchase credit not based on service for use toward retirement eligibility and benefits. The purchase of service credit for such nonqualified service as defined under section 415(n) of the Internal Revenue Code, as amended, is limited to an aggregate of five years.

¹⁰⁵ **SECTION 6. AMENDMENT.** Subsection 11 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

11. The fund may accept eligible rollovers, direct rollovers, and trustee-to-trustee transfers from eligible retirement plans specified under Internal Revenue Code section 402(c)(8)(B), as amended, to purchase refunded service credit under section 15-39.1-15 and to purchase additional service credit under section 15-39.1-24. The board shall adopt rules to ensure that the rollovers and transfers comply with the requirements of the Internal Revenue Code and internal revenue service regulations. The total amount rolled over or transferred into the fund may not exceed the amount due to purchase service credit.

SECTION 7. AMENDMENT. Section 15-39.1-34 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-34. Internal Revenue Code compliance.

The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code, as amended, and regulations adopted pursuant to those provisions as they apply to governmental plans.

Approved March 26, 2015

Filed March 26, 2015

¹⁰⁴ Section 15-39.1-24 was also amended by section 6 of House Bill No. 1064, chapter 136.

¹⁰⁵ Section 15-39.1-24 was also amended by section 5 of House Bill No. 1064, chapter 136.